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VIA HAND DELIVERY

United States Environmental
Protection Agency - Region 5
Emergency Support Section
77 West Jackson Boulevard
Chicago, Illinois 60604

Attention: Deborah Dawley (HSES-5J)

**Re: Case Corporation Response to USEPA Request For Information
Northwestern Barrel Site a/k/a Marina Cliffs, South Milwaukee, Wisconsin**

Dear Ms. Dawley:

Case Corporation is in receipt of USEPA's CERCLA Section 104(e) "Request For Information" for the Northwestern Barrel Site, also known as Marina Cliffs, 5th Avenue and Marina Road, City of South Milwaukee, Milwaukee County, Wisconsin. For its response, Case Corporation submits the following, including the documents attached hereto.

Preliminary Statement And Objections

Case Corporation denies any liability in connection with the Northwestern Barrel Site, based upon, by virtue of, or arising out of or under CERCLA, or any section thereof. Case Corporation specifically denies Case is an entity that disposed of, arranged for the treatment or disposal, or arranged for transportation for treatment or disposal of hazardous substances at the Northwestern Barrel Site, and further denies that Case is a responsible party under CERCLA Section 107, or otherwise liable under CERCLA. Case further denies that USEPA, the State of Wisconsin or any other

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governmental entity has sustained any recoverable response costs or damages as the direct or proximate result of any alleged or purported intentional, careless or negligent act or omission on the part of Case, its employees or agents. To the extent Case Corporation has any liability associated with the Northwestern Barrel Site, the response costs and damages arising therefrom are divisible and/or *de minimis*.

Case submits that events which may be relevant to the matters inquired into by the USEPA occurred, according to the USEPA, not less than 30 and up to 60 years ago. Because the events reportedly occurred so long ago, it is extremely difficult to reconstruct or retrieve the information requested. Moreover, some individuals who might have personal knowledge of the matters to which the USEPA's requests relate are unavailable due to death, resignation or retirement. Similarly, any relevant documents which at one time may have existed for the years in question (1935-1965) have long since been destroyed in the ordinary course of business and pursuant to then-existing record retention policies. For these reasons, the information furnished by Case's Responses may be incomplete.

Nevertheless, Case has endeavored to investigate relevant circumstances, and the following Responses are based upon information developed principally through conversations with former personnel of Case Corporation. Case cannot exclude the possibility that its continuing investigation may reveal more complete information, or information which indicates that a Response now being supplied is incorrect, and Case therefore reserves the right to supplement and/or correct these Responses at a future date if additional information is discovered.

Finally, Case objects generally to these Requests on the grounds they are unduly burdensome, overbroad, and to the extent they seek information unrelated to the Northwestern Barrel Site. Objection is also made to these Requests to the extent they seek information or materials that have been gathered or prepared in anticipation of litigation, or which are otherwise subject to the attorney-client privilege or the attorney work-product privilege.

This Preliminary Statement and Objections by Case Corporation are incorporated into each of the Responses set forth below.

Response To Requests

Request 1: Identify all persons consulted in the preparation of the answers to these Information Requests.

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Response:

Armas Latva

Marvin Deguire

Leo Prevost

Joseph Weber

Kenneth Heberling

Richard Lutz

Richard Elias

Jim Carlson

Robert Ross

Al Raasch

Vern Fernholz

Carlton Darracott

Fred Alverson

Helmut Venckovic

Leo Kitelinger

Jim Arndt

Judy Sweeti

Rita Tyllo

Andre Cariello

Armand Salerno

Rick Ayers

Milo Millette

Ed Heys

Larry Campeau, Jr.

James Ross

Reid Urban

Request 2: Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests and provide copies of all such documents.

Response: "J.I. Case Historical Summary" Form No. 3721 (excerpt pages 10-19) attached hereto as Nos. 000000-000005.

Request 3: If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.

Response: None. Investigation continues.

Request 4: List the EPA Identification Numbers of the Respondent.

Response: Tractor/Foundry Plant - W1D000808287

Transmission Plant - W1D981777311

Request 5: Identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of

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hazardous substances by you, your contractors, or by prior owners and/operators.

Response: Persons with some knowledge that may have some bearing upon the Northwestern Barrel Site include Armas Latva, Marvin Deguire, Leo Prevost, Joseph Weber, Kenneth Heberling, Richard Lutz, Jim Carlson, Richard Elias, Al Raasch, Vern Fernholz, Carlton Darracott, Fred Alverson, and Reid Urban. Investigation continues.

The relevant time-period for questions #6 through #14 extends from 1935 to 1965 inclusive. If changes occurred in your business practices during this time period, identify when those changes occurred and what those changes were.

Request 6: During the relevant time period, identify any materials you may have purchased or stored in drums or barrels.

- a. Identify any such materials which may be hazardous materials or substances.
- b. Identify the chemical composition, characteristics, physical state (e.g. solid, liquid) of each identified hazardous substance.
- c. Describe how each hazardous substance was used in your business operations.
- d. Estimate the quantity of each hazardous substance used during a month.
- e. Identify the method by which you would dispose of any waste hazardous substance. If you utilized a hauler to take away the waste, identify each and every hauler and any details of the hauling arrangements. Provide records of such arrangements if available.

Response: From time to time during the relevant time period, Case purchased in drums such material as paint, paint thinner, solvents, and to a lesser extent oils, lubricants, coolants, and cleaning solutions.

Drums were used to transport or store foundry castings, used occasionally to transport dirt, used for small scale trash collection, and for disposal of paint waste, spent solvents, and waste oils.

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Drummed paint waste was disposed of at sites other than the Northwestern Barrel Site. Spent solvents and waste oils likewise were not disposed at Northwestern Barrel, but rather in the earliest years occasionally were disposed down the sanitary sewer, and later collected by various reclaimers/recyclers.

Request 7: Describe your standard procedures for handling the drums or barrels containing the materials identified in response to Question #6 (a) when you no longer needed the contents thereof.

Response: From time to time during the relevant time period, empty drums were utilized for various purposes by Case Corporation. See Response 6 above. Empty drums were also smashed and sold as scrap, melted in plant furnaces, taken home by Case Corporation employees, and occasionally stolen from Case property. Investigation continues.

Case Corporation's principal paint supplier in the 1950s and mid-1960s was Tousey Varnish. Case's investigation suggests that through 1956, Case purchased drummed paint from Tousey, and at Tousey's direction turned over empty Tousey paint drums to Northwestern Barrel. Upon information and belief, Northwestern Barrel then cleaned the drums and returned them to Tousey Varnish. After approximately 1957, Case Corporation apparently returned empty Tousey paint drums directly to Tousey. For direct returns to Tousey, thinner or solvent was placed in the empty drums to keep any paint residue from hardening. Investigation continues.

For direct drum returns, the arrangement with Tousey included Case paying Tousey a deposit to ensure the return of Tousey drums, and/or Tousey

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surcharging Case for unreturned drums. A similar drum deposit/return-for-credit arrangement existed between Case and various paint thinner, solvent, oil, and lubricant suppliers. Investigation continues.

From time to time, Case Corporation also operated a drum wash line to clean empty drums. An automatic spray was utilized for drum cleaning. Investigation continues.

Request 8: Did you ever send your drums or barrels anywhere for reconditioning? If so, identify the facilities with which you did such business, the frequency with which you had drums or barrels reconditioned and the quantity of drums or barrels reconditioned.

Response: Case Corporation did not send drums to Northwestern Barrel for reconditioning. Upon information and belief, Tousey Varnish had an arrangement with Northwestern Barrel whereby Northwestern Barrel picked-up empty Tousey drums from Case for cleaning at Northwestern Barrel and return to Tousey. Any other contact(s) between Case Corporation and Northwestern Barrel would have been episodic, the circumstances of which are presently unknown. Investigation continues. (Case may have on an infrequent basis received/purchased clean, used drums from Northwestern Barrel for various plant uses.)

Request 9: Did you ever sell drums or barrels you no longer needed to a barrel company? If so, identify the facilities with which you did such business, the frequency with which you sold or otherwise transferred drums or barrels and the quantity of drums or barrels sold or otherwise transferred.

Response: No information is presently available for the relevant time period.

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Investigation continues.

Request 10: Did you have occasion to transfer barrels or drums at any time to the Northwestern Barrel Company in South Milwaukee, Wisconsin? If so, describe the nature of such transactions, including frequency and number of drums or barrels.

Response: See Responses 7 and 8 above.

Request 11: If the answer to the first part of the above question is yes, provide copies of any transaction records and respond to the following questions:

- a. Would you arrange for delivery of drums or barrels or would you have them picked up?
- b. Would the drums or barrels be empty (washed out) or would some residue of the contents remain?
- c. If the drums or barrels contained some residue, describe the quantity and constituents of such residue.

Response: As stated above in Case's Preliminary Statement And Objections, no relevant records are available.

Request 12: Identify the type and quantity of any waste generated by your company which may have contained a hazardous substance and which may have been disposed of at the Marina Cliffs Barrel Dump Site, also known as the Northwestern Barrel Company.

Response: Case Corporation generated no waste which may have contained a hazardous substance and which may have been disposed at the Northwestern Barrel Site.

Request 13: Provide a detailed description of the generic common and/or trade name and the chemical composition and character (i.e., liquid, solid, sludge) of any waste you sent to the Site (or to the Northwestern Barrel Company). Include a copy of all records indicating the chemical composition and/or chemical character of any waste sent to the Site.

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Response: Case Corporation sent no waste to the Northwestern Barrel Site.

Request 14: Identify the subsidiary or parent corporations of your company, if any.

Response: During the relevant time period, Case Corporation was known as J.I. Case Company, and had no parent corporation. Any subsidiaries of Case had no connection with the Northwestern Barrel Site.

Request 15: Identify all liability insurance policies held by Respondent from 1935 to present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

Response: Case Corporation meets all financial assurance responsibility tests that could apply to a claim for recoverable response costs and damages under CERCLA.

Request 16: Provide copies of all income tax returns sent to the Federal Internal Revenue Service in the last three years.

Response: See Response 15 above.

Request 17: If Respondent is a Corporation, respond to the following requests:

- a) Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to those filed with the Internal Revenue Service.
- c) Identify all of Respondent's current assets and liabilities and the persons who currently own or are responsible for such assets and liabilities.

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Response: Attached hereto are "Certificate Of Incorporation" and "By-Laws" of Case Equipment Corporation, numbered 000006-000021. Also enclosed are annual reports for Tenneco, Inc. (1989-1993), and for Case Corporation (1994).

Conclusion

Based upon the foregoing, Case Corporation respectfully requests that USEPA reconsider USEPA's "Notice of Potential Liability", and upon review of Case's Responses to USEPA's "Request for Information", withdraw the Agency's "Notice of Potential Liability" as to Case. Alternatively, Case requests notification from USEPA that the Agency has deleted Case Corporation from USEPA's list of potentially responsible parties. In the alternative, Case Corporation requests USEPA to identify Case as a *de minimis* party under CERCLA Section 122(g).

Very truly yours,

CASE CORPORATION



By: Daniel C. Murray
Johnson & Bell, Ltd.
222 North LaSalle, Suite 2200
Chicago, Illinois 60601-1104
312/372-0770

David G. Mueller
Case Corporation
Corporate Counsel
700 State Street
Racine, Wisconsin 53404
414/636-7898

Dated: April 21, 1995

J I Case
A Tenneco Company



700 State Street
Racine, Wisconsin 53404
(414) 636-6011

CERTIFICATION

The foregoing information, subject to inadvertent or undisclosed errors, is based upon, and therefore necessarily limited by, information still in existence, presently recollected and discovered in the course of preparing this response. The company believes the information provided above is accurate, but it reserves the right to make changes in the responses at any time that omissions or errors have been made or more accurate information is subsequently available.

I hereby certify that the foregoing facts are true to the best of my knowledge and belief.

Dated this 21st day of April, 1995.

Case Corporation

By: Reid A. Urban
Reid A. Urban

Subscribed and sworn before me this
21st day of April, 1995.

Sandra L. Konieczko
Notary Public, State of Wisconsin

My Commission Expires: August 11, 1996

